



# DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS

ARMY CORPS OF ENGINEERS CENTRE

190 FIFTH STREET EAST

ST. PAUL, MN 55101-1638

March 19, 2001

REPLY TO  
ATTENTION OF

Construction-Operations  
Regulatory (00-01426-JBK)

04405

Mr. William Thompson  
S79 W17721 Scenic Drive  
Muskego, WI 53150

Dear Mr. Thompson:

We have reviewed information about a proposal to discharge fill material into an isolated wetland for a yard fill and shed construction project. The project is in Sec. 16, T. 5N., R. 20E., Waukesha County, Wisconsin. This jurisdictional determination takes into consideration the standards set out by the U.S. Supreme Court's decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision).

The subject water body is not a "water of the United States" because it is: (1) not a navigable water, (2) not an interstate water, (3) not part of a tributary system to 1 or 2, (4) not a wetland adjacent to any of the foregoing, and not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular waterbody is insufficient to establish Clean Water Act jurisdiction. This waterbody is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act.

This jurisdictional determination is valid only for the project and waterbody referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE DEPARTMENT OF NATURAL RESOURCES OR COUNTY).

If you have any questions, please contact Mr. James Knowles in our Waukesha field office at (262) 547-3064. In any correspondence or inquiries, please refer to the file number shown above.

Sincerely,

Ben Wopat

Chief, Regulatory Branch

Copy Furnished: Mr. Greg Pilarski, WDNR

Mr. Mike Cain, WDNR



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